

REMARKS

Claims 1-20 remain in this application. Claims 1-2 and 11-12 have been amended, without prejudice. By these amendments, no new matter has been added.

The present patent application is drawn to a method and system for operating a network server. The method operates at a level above network devices that create and manage packets according to protocols of packet-switching networks. According to the method and system, the transfer rate of large files that disproportionately deplete server resources are slowed while the transfer rate for smaller files is essentially unchanged. The file transfer rate is controlled by adjusting the delay time between file transfer packets or by adjusting the number of information bits in the packet of information so as to cause later-transferred portions of the file to be delayed by progressively increasing amounts. Small files with few packets will experience very little delay while larger files with a greater number of packets will be subject to longer and longer delay times as each packet is transferred and the delay time is increased. Claims 1 and 11 have been amended to more particularly claim these aspects of the invention.

The Examiner rejected Claims 1-20 under 35 U.S.C § 103(a) as obvious over Kalkunte. These rejections are respectfully traversed. Kalkunte presents no bar to patentability of the present invention.

Kalkunte discloses increasing network efficiency by reducing network collisions through management of low-level packet delay times. Kalkunte fails to disclose or suggest forming packets at a higher level, and then transferring the packet to a lower-level component for packeting according to a network protocol. That is, Kalkunte fails to disclose or suggest

transferring the packet of information from the memory to a lower-level network component operative to configure the packet as at least one lower-level packet according to a protocol of a packet-switched network for transmission to the one of the plurality of client devices after the removing step,

together with the separate step of removing the packet from the memory, as defined by claims 1 and 11. The packet is transferred "from the memory," which belongs to the server, so it is clear that the removing step occurs at a higher level, before sending the packet for further packetization according to network protocols.

Kalkunte further fails to disclose or suggest:

repeating the removing step, the transferring step, and the pausing step in any operative order until all of the file has been transferred to the lower-level network component, wherein at least one of the delay period and the defined number of information bits in the information packet is controlled so as to cause later-transferred portions of the file to be delayed by progressively increasing amounts

as defined by claims 1 and 11. Claims 2 and 12 specifically define increasing the delay time to ever-increasing values. Kalkunte merely discloses that the interval time can be calculated as an integer multiple of a predetermined slot time (3:46-50) and under other circumstances can reduce the delay interval to zero (3:35-36). Kalkunte fails to disclose or suggest increasing the delay interval or reducing the packet size so as to progressively increase the amount of delay for later portions of the file.

Kalkunte also teaches away from the present invention. According to the invention, one objective is to *decrease* network throughput, albeit selectively, by progressively increasing delays for later portions of a file. In contrast, every embodiment of Kalkunte teaches how to *increase* network throughput by reducing collisions using a variety of methods including collision mediation and queries between data packets to avoid multiple simultaneous data transmissions.

Kalkunte further fails to disclose or suggest determining the calculated value for a delay period from the file size or the file type so as to cause progressively increasing delays for later portions of a file, as defined by claims 7 and 17. As detailed in the last response, Kalkunte discloses modifying delay times based only on network conditions, not on file size. In every instance disclosed in Kalkunte, the delay interval is determined based on network conditions. Although Kalkunte makes a passing reference to "the

byte length of the received frame is passed to FIFO control 34" (4:63-64), this does not disclose any action related to file size. According to its use in the network arts, a "frame" is synonymous with a "packet"; therefore Kalkunte merely discloses passing packet size to a low-level FIFO controller. In contrast, claims 1 and 11 define a "file" that is clearly a high-level entity distinct from and comprised of multiple packets.

Dependent Claims 3-10 and 13-20 contain numerous additional elements that are not disclosed or suggested by Kalkunte and are therefore independently allowable. In addition, each of the dependent claims is also allowable as depending from an allowable base claim.

In view of the foregoing, the Applicant respectfully submits that Claims 1-20 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. To the extent it would be helpful to placing this application in condition for allowance, the Applicant encourages the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, Applicants petition the Commissioner for a three-month extension of time, extending to March 3, 2006, the period for action on the Notice of Appeal filed October 3, 2005. The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3683.

Respectfully submitted,

Date: March 3, 2006

  
\_\_\_\_\_  
Jonathan Jaech  
Attorney for Applicants  
Registration No. 41,091

Serial No. 09/837,319  
March 3, 2006  
Page 10

CUSTOMER  
NUMBER

**58688**

PATENT TRADEMARK OFFICE

**Connolly Bove Lodge & Hutz LLP**  
355 South Grand Avenue  
Suite 3150  
Los Angeles, CA 90071-1560  
(213) 787-2500